

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNETH ZOLNIEREK,

Plaintiff,

v.

CASE NO. 2:08-CV-14930
HONORABLE PAUL D. BORMAN

HURON CO. JAIL, et al.,

Defendants.

**OPINION AND ORDER SUMMARILY DISMISSING COMPLAINT
AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

The Court has before it Plaintiff Kenneth Zolnierrek's *pro se* civil rights complaint brought pursuant to 42 U.S.C. § 1983, as well as his recently filed motion for summary judgment. Plaintiff is currently confined at the Bay County Jail in Bay City, Michigan. At the time he filed his complaint, Plaintiff did not pay the required \$350.00 filing fee, nor did he submit a proper application to proceed without prepayment of the filing fee. *See* 28 U.S.C. § 1915(a)(2); *McGore v. Wrigglesworth*, 114 F.3d 601, 605 (6th Cir. 1997). Consequently, the Court issued a deficiency order requiring Plaintiff to either pay the filing fee or submit a properly completed *in forma pauperis* application within 30 days – by January 5, 2009. The order provided that if Plaintiff did not submit the fee or the application to proceed without prepayment of the fee within that time, his case would be dismissed. Plaintiff has failed to correct the filing deficiency within the allotted time for doing so.

Accordingly, the Court **DISMISSES WITHOUT PREJUDICE** the civil rights complaint. Given this determination, the Court also **DENIES** Plaintiff's motion for summary judgment.

Plaintiff is not entitled to summary judgment as he has failed to correct his filing deficiency and the defendants have not been served with the complaint. Lastly, the Court concludes that an appeal from this order would be frivolous and cannot be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); *see also McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: January 20, 2009

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on January 20, 2009.

s/Denise Goodine
Case Manager